



International Tribunal for the Prosecution
of Persons Responsible for Serious
Violations of International Humanitarian
Law Committed in the Territory of The
Former Yugoslavia since 1991

Case No. IT-95-16-PT

Date: 29 July 1998

English
Original: French

IN THE TRIAL CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Fouad Riad
Judge Mohamed Shahabuddeen

Registrar: Mr. Jean-Jacques Heintz, Deputy Registrar

Decision of: 29 July 1998

THE PROSECUTOR

v.

ZORAN KUPREŠKIC et al.

**DECISION ON THE PROSECUTOR'S REQUEST TO RELEASE TESTIMONY
PURSUANT TO RULE 66 OF THE RULES OF PROCEDURE AND EVIDENCE
GIVEN IN CLOSED SESSION UNDER RULE 79 OF THE RULES**

The Office of the Prosecutor:

Mr. Franck Terrier
Mr. Albert Moskowitz

Defence Counsel:

Mr. Ranko Radović
Ms. Jadranka Slovković Glumac
Mr. Borislav Krajina
Mr. Petar Pavković
Mr. Luko Šušak
Mr. Petar Pulišelić

TRIAL CHAMBER I of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia,

PURSUANT to Rules 54, 66, and 79 of the Rules of Procedure and Evidence (hereinafter “the Rules”),

NOTING the Decision of 22 January 1998 issued by Trial Chamber II on the Prosecutor's motion for the protection of victims and witnesses in the case *The Prosecutor v. Zoran Kupreškić et al.* (IT-95-16-PT) (hereinafter “the Decision of 22 January 1998”),

NOTING the transcript of the closed session testimony of the witness in question dated 20, 23, 24, and 25 February 1998 in the case *The Prosecutor v. Tihomir Blaškić* (IT-95-14-T),

NOTING the Prosecutor's request to release testimony pursuant to Rule 66 of the Rules given in closed session under Rule 79 of the Rules, filed confidentially and *ex parte* on 20 July 1998 in the case *The Prosecutor v. Zoran Kupreškić et al.* (IT-95-16-PT) (hereinafter “the Request”),

CONSIDERING that the Prosecutor requests leave of the Trial Chamber to disclose to Defence Counsel in the case *The Prosecutor v. Zoran Kupreškić et al.* the transcript of the closed session testimony of a protected witness in the case *The Prosecutor v. Tihomir Blaškić*; that the Prosecution specifies that it intends to call the said witness to testify in the case *The Prosecutor v. Zoran Kupreškić et al.* and that it is therefore obligated to disclose all the prior statements of the witness to the Defence, pursuant to Sub-rule 66(A)(ii) of the Rules,

CONSIDERING that the Trial Chamber has granted protective measures to the witness in question; that it consequently deems that it alone has jurisdiction to lift all or some of the said protective measures,

CONSIDERING that Sub-rule 66(A)(ii) of the Rules states that “*copies of the statements of all witnesses whom the Prosecutor intends to call to testify at trial*” shall be made available to

the Defence; that the Trial Chamber notes, in the case in point, the Prosecutor's decision to call the said witness to testify in the case *The Prosecutor v. Zoran Kupreškić et al.*, and the resulting obligation to disclose the statements, pursuant to Sub-rule 66(A)(ii) of the Rules,

CONSIDERING that the Trial Chamber is of the opinion that it cannot be contested that the transcript of the testimony of a witness constitutes a statement within the meaning of Sub-rule 66(A)(ii) of the Rules; that it is therefore appropriate to permit its disclosure to Defence Counsel,

CONSIDERING that the Trial Chamber recalls that the confidential nature of the testimony of the witness in question in the case *The Prosecutor v. Tihomir Blaškić* must be preserved, namely within the scope of the Decision of 22 January 1998 of Trial Chamber II, pursuant to which the accused, their counsel, and their representatives may not disclose the identity of the protected witnesses to the public or the media,

FOR THE FOREGOING REASONS

GRANTS the Prosecutor's request to release testimony pursuant to Rule 66 of the Rules given in closed session under Rule 79 of the Rules.

Done in French and English, the French version being authentic.

Done this twenty-ninth day of July 1998
At The Hague
The Netherlands

(Signed)

Claude Jorda
Presiding Judge Trial Chamber I

(Seal of the Tribunal)